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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,070

01/05/2005

Mats Kjelsson

1501-1288

5122

466

7590

12/13/2006

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EXAMINER

NOVOSAD, CHRISTOPHER J

ART UNIT

PAPER NUMBER

3641

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/520,070	KJELSSON ET AL.	
	Examiner	Art Unit	
	Christopher J. Novosad	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>010505</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-31 are rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

The claims are replete with indefiniteness problems. Some examples are presented. Applicants must check all the claims to remove all indefiniteness problems.

Regarding claim 1, line 2; claim 27, line 2; and claim 31, line 2, the phrase "or the like" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d).

In parent claim 1, line 7, the recitation of "either sides" is indefinite since it is unclear what is being referred to.

In claim 2, line 7, the recitation of "and/or" renders the claim indefinite since it is unclear as to whether the elements are being recited or not.

In claim 28, the recitation in lines 2 and 3 of "wherein both of said first distributing member are rotatably arranged" is confusing and indefinite. Apparently, --and said at

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least one further distributing member-- was meant to be inserted after "first distributing member."

Further, in claim 28, line 3; claim 29, lines 3 and 4; and claim 30, lines 3 and 4, respectively, there is no proper antecedent basis for the recitation of "said second distributing member."

Again, the claims are replete with indefiniteness problems. Some examples are presented. Applicants must check all the claims to remove all indefiniteness problems.

Claim Rejections – 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section of this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 10, 19, 20 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Herriau (U.S.P. 4,403,713) as follows:

Regarding claim 1, Herriau discloses an apparatus (Figure 1) for discrete distribution of granules, such as seed comprising:

A path (unnumbered) forming device having an inlet (the open end of the funnel-shaped rotatable plate 24, Fig. 1) adapted to be associated with a granules container (1) of an agricultural machine, and

An outlet (38) adapted to be associated with a coulter (not shown) of the agricultural machine,

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Said path (not numbered) is defined by at least one wall (internal wall 15) extending on either sides of and along at least a part of the extension of said path (unnumbered), wherein said path is formed about a substantially vertical axis (see Figure 1).

With respect to claim 2, note in Herriau that the housing formed by wall (15,16 including funnel portion 24) has a circular cross-section, and at least one conical distributing member (19) has at least partly an annular periphery about a vertical central axis (not shown), wherein said distributing member (19) during use has at least partly a downward sloping surface (see Fig. 1) from said central axis (not shown) towards an inside wall (15 including the funnel-shaped part 24) of the housing (formed by said wall and funnel shaped part 15,24), and said inside wall (the inside wall of the funnel-shaped part 24) has a downward sloping surface towards said distributing member (19), and wherein said inside wall (15,24) and said distributing member form said path.

Regarding claim 3, the housing (15, 24) and distributing member (19) of Herriau are rotatably arranged in relation to one another (the conical distributing member (19) rotates relative to the stationary housing (15, 24).

As to claim 10, it is considered that at least the surface of either or both of the distributing member (19) and the housing (15, 24) of Herriau is made of a "flexible material" as broadly recited. While Herriau is silent as to the particular material used in making the apparatus of the invention, even if made from a metal which is most likely, metal itself will necessarily have a modulus of elasticity and have some flexibility.

Regarding claim 19, the housing part (15) of Herriau is "at least partly tubular," as recited in the claim.

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With respect to claim 20, the housing portion (24) of Herriau is “at least partly conical in the direction of flow,” as recited in the claim.

Regarding claim 31, the apparatus of Herriau is associated with the container (1) and the coultter (not shown).

Claims 1, 27 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds (U.S.P. 3,195,485) as follows:

Reynolds discloses an apparatus for discrete distribution of granules, such as seed.

Regarding claim 1, Reynolds discloses a path forming device having an inlet (92, Fig. 7), a container (hopper 36), an outlet (70a), walls (108, 109, 110) forming the sides of a path for the granules, wherein the path is about a substantially vertical axis (see Fig. 7), as recited in the claim.

With respect to claim 27, Reynolds (in addition to the elements recited in claim 1 noted above) further discloses a “housing” (46a, Fig. 7) associated with a coultter (not shown), a distributing member (96) having an annular periphery and a central axis (not shown) wherein said distributing member during use has at partly a downward sloping surface from said central axis (axis of hub 100, unnumbered) towards an inside wall (108, 109) of the housing, and a second distributing member (98) arranged downstream of the first distributing member (96, col. 5, lines 16-59, and Figs. 6 and 7).

With respect to claim 30, the peripheral cross-sections of the first and second distributing members (96, 98, respectively) of Reynolds are “substantially the same,” as called for in the claim.

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Regarding claim 31, the apparatus of Reynolds is associated with the container (hopper 36) and the coulter (not shown).

Allowable Subject Matter

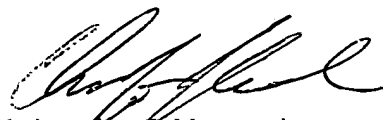
Claims 4-9, 11-18, 21-26, 28 and 29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 571-272-6993. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher J. Novosad
Primary Examiner
Art Unit 3641

December 11, 2006